



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

CRS
Docket No: 5248-98
5 May 2000

[REDACTED]

Dear [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 26 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you reenlisted in the Marine Corps on 20 December 1991 as a CPL (E-4) after more than four years of prior active service. On 1 July 1994 you were not recommended for SGT (E-5) due to pending special court-martial charges. On 18 October 1994 you were convicted by a special court-martial of assault on a female by burning her hair and forehead with a means likely to produce death or grievous bodily harm. The sentence imposed consisted of confinement for 89 days, restriction for 60 days, and reduction in rank to LCPL (E-3).

On 2 March 1995 the convening authority suspended the reduction in rank and restriction until the end of your enlistment. Subsequently, you received an honorable discharge at the expiration of your enlistment. At that time you were assigned a reenlistment code of RE-4.

An entry in your record reflects that reenlistment was not authorized due to the conviction by court-martial. The Board concluded that the disciplinary action was sufficient to warrant

the assignment of an RE-4 reenlistment code. In this regard, the Board also noted that you had reached the service limitation of eight years for an individual serving as a CPL.

Concerning your promotion to sergeant, it is clear from your service record that you were not in a promotable status from 1 July 1994 to the end of your enlistment.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director